IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

SECOND APPEAL NO.1357 OF 2005
WITH
CIVIL APPLICATION NO.1925 OF 2005

Avelin John Dantas & Ors. ..Appellants.
Vs.
Sawantwadi Municipality & Ors. ..Respondents.

...

Mr. Milind Sathe, Senior Advocate with Mr. S.G. Karandikar for the Appellants.
None for the Respondents.

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CORAM : DR.D.Y.CHANDRACHUD, J.

22nd November, 2005.

P.C. :

The Second Appeal does not raise any substantial question of law. The structure of the Appellant is situated on municipal land and the finding is that the stall is in the center space of the market area. The Appellant had absolutely no material to establish his claim of tenancy. The Appellant is therefore an encroacher and no right to continue. In the circumstances, the Appeal is dismissed.

Counsel appearing for the Appellant states that the Municipality in all probability is reconstructing the municipal market

and in which case, the Appellant's claim for allotment of premises may be considered. In the event that the Municipality reconstructs any building in the market, it would undoubtedly be open to the Appellant to make an application for allotment and such an application will be duly considered as indeed all other applications in accordance with law. In order to enable the Appellant to have some reasonable time to remove the structure, there shall be a direction to the effect that the structure shall be liable to be removed only after 31st December, 2005, if the Appellant does not remove the structure by 31st December, 2005.

In view of the disposal of the Second Appeal, Civil Application is rendered infructuous and is accordingly disposed of.